

Working with Justice-Involved Persons

Frequently Asked Questions

Communities across the country are working to implement SOAR in criminal justice settings to connect individuals with key income supports and other benefits, such as health insurance, playing a role in maximizing connections to essential care, income, and housing. The following are some frequently asked questions and resources for providers working with people in the criminal justice system to help them through the Supplemental Security Income (SSI)/Social Security Disability Insurance (SSDI) application process.

Applying for SSI and SSDI

Q: Can an individual submit an SSI/SSDI application while incarcerated?

A: Yes. As a general rule, the Social Security Administration (SSA) requests that pre-release applications be submitted 30 days prior to release. If the institution has a pre-release agreement with SSA, this timeframe can be increased to as much as 120 days prior to release.

Q: Can an individual apply for benefits if s/he has a warrant?

A: Yes, as long as the warrant is not related to escape or fleeing to escape prosecution (Clark v. Astrue). *(More information about the Clark Court Order can be found at <https://secure.ssa.gov/poms.nsf/lnx/0202615100> and/or https://www.ssa.gov/clark_relief_order/)*

Q: Can an individual apply for benefits if the physical injury or mental impairment(s) occurred during the commission of a crime?

A: Injuries sustained or aggravated as a result of an individual’s participation in a felony for which they are convicted after October 19, 1980, will NOT be considered relevant in the disability determination. These impairments will not be considered for the lifetime of the individual. *(SSA Reference: <https://secure.ssa.gov/poms.nsf/lnx/0410105100>)*

Receiving Benefits:

Supplemental Security Income (SSI)

| Incarceration Time | Effect on Benefits | Action Needed Upon Release |
|---------------------------------|--------------------|---|
| <1 full calendar month | No effect | N/A |
| 1-12 calendar months | Suspended | Contact SSA for reinstatement upon release. |
| 12+ consecutive calendar months | Terminated | Reapplication required* |

*As a general rule, reapplication can be made 30 days prior to expected release date but benefits cannot begin until release. With a pre-release agreement, this time can be extended to 120 days prior to release.

Suspension and Reinstatement of Benefits

Q: What happens to SSI benefits when a person is incarcerated?

A: When SSI recipients are incarcerated for a full calendar month (e.g., March 1-March 31), their benefits are suspended. If they are released in less than 12 consecutive calendar months, their benefits can be reinstated upon release. They need to bring official release papers from the institution to the local Social Security office. SSA will review their new living arrangement and reinstate payment. If SSI recipients are incarcerated for 12 consecutive calendar months or more, their SSI benefits are terminated and they must reapply.

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Frequently Asked Questions

Q: What happens to SSDI benefits when a person is incarcerated?

A: SSDI recipients are eligible to continue receiving benefits until they are convicted of a criminal offense and are confined for more than 30 continuous days. After that time, their benefits are suspended. Benefits can be reinstated the month following their release into the community. Once released, individuals should contact their local Social Security office with official release papers and request that benefits be reinstated. No specific reinstatement forms are needed beyond release papers from the institution. If they are in jail awaiting trial, SSDI will continue until they are convicted.

Q. Can individuals receive benefit payments while in a community correctional facility?

A: Social Security will not pay benefits while an individual resides in any facility that is under the authority of the state’s Department of Corrections (DOC). Even though the individual is no longer in prison, they cannot receive benefits until they complete their court-ordered sentence and are officially released, or until the DOC places them on parole and they are no longer under the supervision of the DOC.

Q: Can benefits be reinstated if someone is on home monitoring and wears an ankle bracelet monitor?

A: Yes. Benefits can start again once an individual re-enters the community and the DOC is no longer responsible for their care. Individuals should contact their local Social Security office to report their release from a correctional institution and report their change to ankle bracelet monitoring.

Other Issues That Arise

Q: What if the applicant is found guilty but confined to a state psychiatric hospital or other public institution to serve his or her sentence?

A: According to SSA, “We cannot pay benefits to someone who, by court order, is confined in an institution at public expense in connection with a criminal case if the court finds that the person is: guilty, but insane; not guilty of such an offense by reason of insanity or similar factors (such as a mental disease); or incompetent to stand trial for such an alleged offense.”

Q: Can children and youth under age 18 who are in juvenile detention facilities receive SSI?

A: No. Similar to the SSI rules for adults, children who are confined in a correctional facility for a full calendar month are not eligible for payment (i.e., benefits are suspended). The same pre-release application procedures apply.

Receiving Benefits

Social Security Disability Insurance (SSDI)

| Incarceration Time | Effect on Benefits | Action Needed Upon Release |
|--------------------|--------------------|--|
| <30 days | No effect | N/A |
| >30 days* | Suspended | Contact SSA for reinstatement upon release |

*Recipients are eligible to continue receiving their benefits until they are convicted of a criminal offense and confined to a penal institution for more than 30 continuous days.